

REMARKS

Claims 1-5, 8, 10, 28-40 are pending. Claims have been amended to better describe what Applicants regard as their invention. No new matter has been introduced by the amendments.

The undersigned thanks the Examiner for the helpful comments during the telephone interviews, on which these amendments are based. It is our understanding that the subject amendment will place the subject application in condition for allowance.

May 12, 2004 Advisory Action

Applicants filed an amendment after final office action in response to October 28, 2003 Final Office Action. In the Advisory Action mailed on May 12, 2004, the Examiner stated that Applicants' amendment has overcome the rejection of claims 1-5, 8, 10, and 28-40 under 35 U.S.C. § 112, scope of enablement and written description, regarding "40% amino acid identity," and the rejection under 35 U.S.C. § 112, new matter. The Examiner also acknowledged that the double-patenting rejection has been overcome. However, the Examiner stated that the claims are not in condition for allowance for the following remaining reasons, to each of which Applicants respond:

Rejections under 35 U.S.C. § 112 first paragraph – enablement

The Examiner rejected all pending claims as not enabled for the reasons of record stated in the October 28, 2003 Office Action. He stated that the breath of the claims was excessive regarding OP-1 binding analogs. Claims 1, 2, 8 and 31 were amended and no longer recite analogs. All other claims are dependent from these amended claims.

Rejections under 35 U.S.C. § 112 first paragraph – written description

The Examiner rejected all pending claims as not enabled for the reasons of record stated on October 28, 2003, Office Action. He stated that the recitation in the claims regarding hybridization as previously presented do not meet the written description requirement of the statute. Claims 1, 2, 8 and 31 were amended and now recite a specific hybridization condition. All other claims are dependent from these amended claims.

The claims were also rejected under 35 U.S.C. § 112 because, according to the Examiner, the metes and bounds of the clause "substantially the same stringency" are not known. Claims 1, 2, 8, and 31 were amended and no longer recite the clause that form the basis of this ground of rejection. All other claims are dependent from these amended claims.

In view of the above amendment, applicant believes the pending application is in condition for immediate allowance.

Please charge our Deposit Account No. 18-1945, under Order No. JJJ-P04-523 which the undersigned is authorized to draw for the applicable fees associated with the Request for Continued Examination filed concurrently herewith. Applicant believes no other fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. JJJ-P04-523.

Dated: July 27, 2004

Respectfully submitted,

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